Canada Mortgage and Housing Corporation
Société canadienne d'hypothèques et de logement

Facilitating Production of Affordable Housing Through Regulatory Reform and Streamlining Approval Processes

A CMHC Paper

prepared for the
National Conferences of
the Canadian Association of Housing
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and
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Hamilton, Ontario

CMHC Helping to house Canadians

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EXECUTIVE SUMMARY

Numerous studies in Canada and the U.S. have shown that current approaches to regulating housing construction, renovation and conversion can add significantly to costs and stifle design and technological innovation.

Canadian housing markets will change appreciably during the next twenty years, due mainly to changes in the mix of household types and age groups. A significant number of households could also experience housing affordability problems. Current regulations restrict the industry in responding to change and in producing more affordable housing.

From demonstration projects and the adoption of new approaches by a few municipalities, particularly in the U.S., there is evidence that regulatory reform can produce major cost savings, without sacrificing essential health and safety needs, or compromising local amenities, property values or municipal tax bases.

There are opportunities for reform in: streamlining approval processes; adopting less restrictive, innovative planning controls; reducing sub-division development standards; modifying building codes for renovation work; and moving towards performance codes for new construction.

A relatively small investment in aggressively pursuing regulatory reform could produce major financial savings for governments, industry and consumers. It therefore seems opportune that key regulatory and industry agencies be approached, with a view to developing an integrated plan for the reform of regulations that are currently applied to residential development, renovation and conversion.

1.0 BACKGROUND

1.1 Changing Housing Markets

Canadian demographic projections indicate that major changes will occur in the mix of household types and age groups. This will probably translate into changing demands for different types and mixes of housing. Growing numbers of elderly people are likely to demand a wider range of housing options, to enable them to exercise a preference for maintaining independant lifestyles, rather than moving into institutional environments. A marked increase in the number of singles and single parent families is also projected, and these households will also have special accommodation needs.

These factors all point to a need for flexibility and innovation, if industry is to respond effectively to changing demands for different types of housing. Many current regulations severely limit flexibility and inhibit innovation, particularly that directed at providing more affordable forms of housing.

1.2 Affordability

Over 1 million Canadian households are unable to afford adequate market housing (i.e. more than 30% of gross income would be expended on housing). Elderly and single parent families are heavily represented in this group and these are growing segments of the population. With increasing demands on public funds, it is unlikely that this problem can be alleviated by providing subsidies.

Reducing the cost of providing housing could enable a greater percentage of the population to afford market housing and reduce the cost of assistance to the remainder. Studies in both Canada and the U.S., indicate that construction regulations and municiple planning requirements can add significantly to the costs of producing new housing and renovating and converting existing housing. In addition, they can totally preclude, or make impractical, many types of affordable housing.

1.3 The Existing Housing Stock

Over 80% of the housing stock that will exist at the end of this century has already been built. The ability to maintain and adapt this stock cost-effectively will therefore be critical in matching the supply of housing to changing needs and demands. This could be of particulary importance in addressing affordability problems, as the existing stock is being increasingly viewed as a major source of housing for

lower income families.

Planning and building regulations and lengthy approval processes can be especially onerous for renovation and conversion projects. This often results in many worthwhile projects not proceeding, with a resultant loss in upgrading and increase in degeneration of the existing stock. Also, many projects are carried out "unofficially", to avoid regulatory compliance, often with little or no regard for critical health and safety issues.

Failure to gain maximum benefit from the existing stock will also undermine the long term value of public investments in existing infrastructure and services.

1.4 New Technology

The production of more energy efficient housing and apartment buildings has led to the development and adoption of a good deal of new technology by the Canadian industry. This trend toward technical change is likely to continue, as new construction systems and mechanical equipment are developed.

Even greater changes could occur if the Canadian industry moves towards adopting new efficient manufactured housing techniques, such as those now used extensively in countries such as Sweden and Japan. As this type of technology is starting to make inroads into the U.S., failure to improve efficiency could make the Canadian housing industry vulnerable in the event of a free trade agreement with the U.S.

Two features of Canadian construction regulations tend to inhibit technological change. Firstly, the prescriptive nature of Canadian construction codes and standards, which must be essentially orientated towards existing construction practices. Secondly, the variations that exist between codes and practices in different provinces and different municipalities, even though most codes in Canada are initially based upon the National Building Code.

In Sweden, building codes are performance orientated and a uniform version, which does, however, provide for climatic differences, is used throughout the country. This may have helped to contribute to the success of the Swedish manufactured housing industry, which now produces over 90% of all new housing in Sweden and is developing export markets throughout the world for both its products and technology.

Growing concerns about problems, such as poor indoor air quality, are causing experts to question whether existing prescriptive codes can adequately deal with those aspects of

a building's performance that are affected by many different component parts of the building.

2.0 ISSUES AND OBJECTIVES

2.1 Regulatory Reform Issues

The discussions presented in Section 1.0 of this paper are intented to provide a background to illustrate why it is so important that the housing industry can respond most effectively to:

- changing housing requirements and preferences;
- the need to improve housing affordability;
- opportunities to utilize new technology and designs to improve the quality, affordability and range of housing options in Canada.

Key issues therefore seem to be: does the existing regulatory environment unreasonably compromise the effectiveness of the housing industry in responding to the above; and if so, can this problem be alleviated by introducing changes which will not compromise essential health and safety requirements, or have negative impacts on neighbourhood amenities, property values and local government finances?

In addressing these issues, it is important to recognize that there are growing demands for more effective regulations to deal with emerging problems such as poor indoor air quality and disintegrating parking structures. The challenge will be to develop regulations that will enable these problems to be dealt with in the most cost effective ways.

2.2 Objectives

The objectives in producing this paper are:

- to identify the types of problems (real or perceived) that are being attributed to regulations that affect the development of new housing, or the renovation or conversion of existing housing;
- to identify initiatives that have been taken to address these problems, both in Canada and abroad;
- to identify opportunities for regulatory reform in Canada and to outline various strategies for promoting and facilitating reform.

The information and ideas presented are by no means comprehensive and it is hoped that this paper will help to stimulate a dialogue between representatives of regulatory agencies, industry and consumers. This could lead to clearer problem definitions; a better perception of the magnitude of problems in Canada; the identification of other initiatives taken to address these problems; and the advancement of ideas on strategies and options for regulatory reform.

3.0 REGULATORY IMPEDIMENTS/REMEDIAL APPROACHES

3.1 The Overall Regulatory Environment

3.1.1 Impediments

There is a widely held view that most activities in developed countries are over-regulated. It is perceived that regulations have been stacked on regulations and that industry is faced with costly and time consuming effort in developing applications and seeking approvals from a multitude of different agencies, each enforcing regulations that are sometimes incompatible with those of another agency. In countries with a federal system of government, such as Canada and the U.S., the division of responsibilities between different levels of government can create further problems, in that each jurisdication may introduce their own special requirements.

For the last few years, federal government agencies in the U.S. have been directed to re-examine the need for all regulations that they administer. In response to this directive, HUD recently recinded the requirement that FHA financed, or insured, single family homes must comply with the FHA minimum property standards. Compliance with local building standards is now all that is required.

The Nielsen Task Force on Regulatory Reform recently advocated a similar examination of the need for regulations administered by all federal government agencies in Canada.

Residential developers and builders in Canada do have to deal with many different agencies and in some cases the requirements of one agency can affect the requirements of another. The resultant iterative approval processes can be time consuming and costly, in terms of professional fees and salaries to prepare and process the submissions, and ongoing carrying costs and overheads. The need to compromise, between the requirements of different agencies, can also adversely affect the final quality of the project.

Developers and builders who work in many different geographic areas also face problems due to the lack of uniformity of regulations between different areas of jurisdiction. This can be particularily difficult for housing manufacturers, who may be faced with customizing their products to comply with unnecessarily different regulations in many different municipalities.

The complexity of the regulatory environment and the delays and costs associated with the approval process tend to stifle innovation. It also probably discourages many small

developers from undertaking projects, as they lack the working capital to hire the necessary skills and to cover carrying costs and overheads during the waiting period. In the case of work on an existing building, owners can also face loss of income and/or use of the building. The problems can be particularly acute for the types of small firms who have traditionally been involved in renovation and conversion projects.

3.1.2 Remedial Approaches

Many studies in Canada and the U.S. have concluded that streamlining the development approval process could result in very significant cost reductions. Some of the more effective techniques adopted by various local jurisdictions, particularly in the U.S., are briefly summarized below. Specific examples of some of these techniques are provided in Appendix B.

At the pre-application stage:

- very precise instructions are provided to the developer concerning information requirements, required permits, time frames, design guidelines and examples of preferred designs;
- a central permit office deals with all applications and processes all inquiries.

At the staff review stage:

- a joint review committee, which includes representatives of all departments involved in the approval process is convened to resolve conflicts quickly;
- fast tracking services are provided to deal with minor and non-controversial projects and avoid lay review;
- simultaneous, rather than sequential, reviews of rezoning and subdivision applications are carried out to shorten the total review period;
- mandatory time-frames are established for completion of the review process;
- permit expediters, or trouble shooters, are employed by municipalities to resolve conflicts and deal with blockages;
- all information, relevant to the approval process, is computerized in order to facilitate monitoring project status, interdepartmental co-operation and expeditious decision making.

At the lay review stage:

- training is provided to elected and appointed officials to improve their understanding of the planning and development process;
- informal meetings are arranged between developers and citizen groups to resolve conflicts;
- public hearings (for example rezoning and subdivision

hearings) are consolidated into one public meeting;
- a hearing official, who is an appointed officer, is used to conduct quasi-judicial hearings for rezonings, variances and the like. (His decision is final unless appealed.);
- mediators are appointed in order to avoid court cases.

At the inspection stage:
- multidisciplinary building inspectors deal with all requirements for on-site inspection and approval;
- self certification of site development and construction work is allowed by qualified professionals.

3.2 Developmental Controls

3.2.1 Impediments

The 1978 Federal/Provincial Task Force Report on the supply and price of serviced residential land, noted that "there is an unavoidable bias in the political system with no one directly representing the interests of prospective residents, particularily the low income households who are the most vulnerable to municipal regulations which are restrictive, or exclusionary, with respect to low cost housing forms". Municiple governments generally perceive their primary responsibility as being to protect the interests of established residents. Most municipalities have established minimum development standards which far exceed basic health, safety and convenience needs. These unnecessarily high standards derive from a desire to ensure a high quality of development which will have a positive, rather than negative, effect on existing property values and ensure that the resultant property taxes will adequately cover the cost of providing services.

Developmental controls that inhibit the production of affordable housing fall into two basic categories. The most visible is zoning that does not permit certain types of affordable housing, such as mobile homes, accessary apartments, convertable units and high density forms of development. Zoning can also preclude many types of conversion and intensification of the existing stock.

The second category comprises site development and servicing standards that are often set at such high levels that the provision of affordable forms of housing is rendered totally impractical. There is also concern that some municipalities are imposing higher lot levies than can be justified by the incremental increases in the cost of providing services.

3.2.2 Remedial Approaches

Numerous studies in Canada and the U.S. have highlighted the

foregoing problems and have advanced proposals for dealing with them. However, it seems apparent that restrictive municipal regulations are unlikely to be modified unless the local politicians and electorate see the benefits of such change, or, unless senior levels of government provide incentives or issue directives. Recognizing this situation, much of the effort at the Federal and State levels in the U.S. has been directed at building grass-roots support for regulatory reform at the local level. Some states have gone even further and have passed legislation designed to prevent local jurisdications from avoiding their "fair share" of affordable housing by imposing unduly restrictive municipal regulations. Information on some of these initiatives is provided in Section 4.1 and in APPENDIX A.

The following is a brief summary of some of the ways in which local jurisdictions have modified their developmental controls (Information on specific examples in the U.S. is provided in APPENDIX B).

Examples of reduced standards include:
- elimination of sidewalks, where possible;
- reduction of street widths and rights-of-way;
- reduced curb radius (sharper turns in residential streets);
- use of flat or ribbon curbs rather than roll curbs;
- doubling of services for adjacent units;
- common trenching for sewer, water and other utility lines;
- reduced lot sizes, frontages, setbacks, and side yards, as well as reduced minimum floor areas;
- greater use of surface drainage rather than more expensive storm sewers.

Examples of flexible zoning and innovative planning techniques include:
- performance zoning;
- mixed-use development;
- cluster development;
- planned unit developments or planned residential developments;
- overlay zoning or special purpose zoning;
- provisions to accommodate manufactured housing, accessory apartments and granny flats.

The following types of initiative have been taken by some states to influence, or direct, change in regulation at the local level. (More detailed information on specific examples is provided in APPENDIX A).
- Legislation to preclude discriminatory zoning against manufactured housing;
- "Fair Share" and "Least Cost" requirements, which utilize techniques such as incentive zoning, inclusionary zoning,

mobile home zoning, and "least cost" housing in order to ensure that municipalities comply with requirements.

3.3 Building Codes

3.3.1 Code Variations Across Canada

Most provincial and municipal building codes in Canada are based upon the National Building Code (NBC), however, in adopting this Code, provinces often introduce their own amendments and municipalities often further amend provincial codes. A report by a Sector Task Force on the Canadian Construction Industry (quoted in a 1984 report by the Construction Industry Development Council) was critical of the considerable differences between provinces, and sometimes within provinces, in the precise application of the NBC. The report noted that only a few provinces have arranged for any continuity in the adoption of amendments to the National Building Code. The effect of this lack of uniformity is to add to the planning and performance costs of contractors operating across jurisdictional boundaries. Housing manufacturers are also particularily vulnerable to problems resulting from having to respond to numerous code variations between jurisdictions where there products are used.

In an attempt to encourage a more uniform adoption of the Code across Canada, the Associate Committee on the National Building Code is proposing the following course of action. In all future updates of the NBC, all amendments that have been introduced by provinces and major municipalities will automatically be reviewed for potential inclusion in the Code.

3.3.2 Performance versus Prescriptive

Canadian building codes are still essentially prescriptive in nature, in that requirements are mainly defined by describing proven construction and engineering practices for currently used construction systems and mechanical equipment. The advantage of this approach is that it provides designers and builders with a very clear picture of what is acceptable. The disadvantage is that, because it is orientated towards existing practices, it does not provide a flexible basis for regulating new technology.

Although all codes provide for the acceptance of "equivalents", designers who wish to introduce new technology are faced with the complex task of having to prove that their system performs at least as well as a system prescribed in the Code. This can be a major deterent to the introduction to new technology.

The use of performance codes, rather than prescriptive codes, can provide designers with the opportunity to seek out the most cost-effective design solutions, thereby encouraging innovation. Sweden has used performance codes for many years and this may have contributed to the success of its progressive manufactured housing industry. At the end of last year, Britain replaced its prescriptive based model by-laws with performance based by-laws, as part of a major overhaul of building control systems.

The residential construction industry's apprehensions about performance codes has usually centered around concerns that projects will require considerably more engineering design input. Both the Swedish and British performance codes are complemented by descriptions of compliance alternatives, therefore, the simplicity of the prescriptive approach is also retained.

The following are some of the reasons why consideration should be given to introducing Building Performance Standards in Canada:

- They could encourage and facilitate innovation and the development and adoption of new technology.
- The cost-effectiveness of construction and the affordability of housing could be improved.
- The international competitive position of Canada's construction industry and consulting firms could be enhanced.
- The opportunity exists to examine the experience of other countries (e.g. Sweden and Britain).
- The residential construction industry's growing familiarity with the performance standard approach, through its involvement in Energy, Mines and Resources R-2000 program.
- The emergence of problems, such as those relating to indoor air quality, that result from the interaction of many parts of a building. These types of problems can be addressed more effectively using performance rather than prescriptive standards.
- The construction industry's growing utilization of low cost computer processing and data handling, which can provide the tools to maximize the benefits of performance standards.

3.3.3 Standards for Renovation Work

Most building standards that are currently used to control renovation and conversion work in Canada were originally developed to control new construction. As a result, the application of these standards to existing buildings often means that potential projects of upgrading, or conversion, become prohibitively expensive. This could seriously impede the adaptation of the existing housing stock to meet

changing needs and demands.

To alleviate this problem, several regulatory authorities have developed codes which provide alternative regulations, equivalents, or permitted variances, for work in renovating existing buildings. This approach has been adopted by the Province of Ontario, the cities of Winnipeg, Vancouver and Saint John, and the State of California.

An alternative approach, which is now used in many European countries and the State of Massachusetts, is to evaluate the effects of any change on the performance of the building. This provides for maximum flexibility and innovation and encourages and facilitates any level of upgrading. For example, the Massachusetts Rehabilitation Code allows the standard of the existing building to become the minimum standard, and rehabilitation work which results in a standard of health and safety lower than the existing standard is not permitted.

4.0 REGULATORY REFORM INITIATIVES

4.1 U.S. Initiatives

4.1.1 Events Leading to Current Regulatory Reform Initiatives

It has been recognized for some time in the U.S. that planning and construction regulations inhibit the production of affordable housing. As early as 1968, **The Presidents' Commission on Housing (Kaiser Committee) and The National Commission on Urban Problems (Douglas Commission)** reported that regulations at the state and local level add significantly to housing costs.

In 1978, **The Federal Task Force on Housing Costs** argued that "regulations by all levels of government are a major factor in increasing housing costs through both substantive requirements and processing delays" and recommended that The Housing and Urban-Affairs Department (HUD) lead a "blunt attack on poorly conceived and cost-inducing regulations". In response to this recommendation HUD sponsored a **National Conference on Housing Costs** which concluded that excessive state and local government regulations, as well as lengthy processing time, were directly responsible for increasing the cost of housing. In 1979, HUD and the National Association of Home Builders (NAHB) also launched **"Approach 80"** to demonstrate reductions in housing costs through sub-division design, site improvement modifications and construction practices.

A Conference on State and Regulatory Reform, held at the White House in January 1980, highlighted problems relating to housing regulation. This led the NAHB and other agencies to recommend that the Federal Government sponsor a demonstration program, to show how housing costs could be reduced by modifying and streamlining local government regulations. In response, HUD initiated the **Housing Cost Reduction Demonstration Program** in April 1980.

In 1981, the Reagan Administration established the **Presidential Commission on Housing.** The Commission concluded that:

- excessive regulation has pushed up costs in some localities by as much as 25% of the final sales price;
- over-regulation has hampered the production of housing for people with average or lower incomes;
- existing regulations limit flexibility in housing construction and hinder efficient operation of the market place by denying consumers a wide range of housing choices.

The Commission also recommended a series of dramatic reforms

to remedy this situation. These included the following measures:

- the density of development and the size of dwelling units would not be restricted by zoning controls but would instead be determined by the market;
- discrimination against manufactured housing would be removed from zoning laws, and growth controls would have to be justified by vital and pressing government interests;
- that HUD undertake an extensive affordable housing implementation program which would include the identification of a single HUD office for promoting and coordinating housing affordability.

In 1982, HUD launched the **Joint Venture for Affordable Housing Program**, a multi-faceted program which includes demonstrations, technical assistance and information dissemination, as well as guidance for citizen groups seeking regulatory reform. This initiative has fostered a close working relationship between HUD, state and local government agencies, industry and consumer groups. The NAHB, which is very activity involved in the joint venture, has also created its own **Regulatory Reform Task Force**.

The importance of regulatory reform was re-emphasized by the **Presidents National Urban Policy Report** of 1984 in which housing affordability was identified as the Nations primary housing problem.

4.1.2 Federal Initiatives

HUD's **Joint Venture for Affordable Housing Program** was created to bring about the necessary cooperation between various public and private sector groups. Its components include information dissemination, affordable housing demonstration projects; and support for deregulation through citizen action.

- **Information Disemination**

  Research reports and case studies dealing with ways of reforming and streamlining regulations have been developed and published in cooperation with agencies such as NAHB, the American Planning Association, the Urban Development Institute and the International City Management Association. A report entitled "Streamlining Land Use Regulations: What Local Public Officials Should Know" received wide circulation to local elected officials, planners and homebuilders. The National Association of Counties is involved with HUD in the **Cost Reduction Project**, the objective of which is to disseminate information on cost reduction techniques.

- **Demonstration Program**

The **Affordable Housing Demonstration Program** initially focused on new housing for home ownership. There are plans to extend the program to include renovation projects. The broad objective has been to utilize regulatory reform, in combination with new design concepts and technology, to reduce housing costs. More specific objectives include:

- identifying known building construction, site planning, site development and processing innovations which can reduce the cost of housing;
- identify Federal, State and Local regulations, such as building codes, zoning regulations, and review procedures which discourage, or prevent, the use of these innovations;
- demonstrating these innovations in projects carried out by local builders in cooperation with local officials;
- documenting the savings, realized in the demonstrations, in case studies and other information for use by builders, government officials and others concerned about the problems of affordable housing.

An important feature of the HUD demonstration program is that no Federal subsidies can be involved in constructing and marketing the projects. Critical to the success of a project are interest and competance on the part of the builder and a strong commitment from the local government.

Guidelines for project selection include:

- that project size be adequate to demonstrate how increased densities can be made acceptable through innovative planning;
- that local governments must agree to cooperate in examining and overcoming regulatory constraints on innovative housing development;
- that the project includes a variety of house styles and sizes.

The initial demonstrations were carried out in new sub-divisions, however, several of the more recent projects have utilized infill land where the challenges are often much greater because of political resistance to new development concepts in established neighbourhoods. HUD has also been involved in demonstrations to encourage the creation of accessory apartments through the conversion of single family dwellings.

The NAHB has played a major role in delivering and providing technical support to the demonstration program. HUD is planning to undertake ongoing monitoring

of the demonstration projects to determine how effective they are in encouraging permanent adoption of some of the reforms and innovations.

° **Citizen Action For Affordable Housing Program**

Much of the pressure for more affordable housing is originating from middle income Americans who are concerned with the affordability problems of their children and parents, and from industries that are concerned with the lack of affordable housing for their employees. The Citizen Action for Affordable Housing Program is designed to assist consumer groups and industry to effectively advocate for regulatory reform at the local level. The Citizen Action Program is linked to the Demonstration Program in that successful projects, which demonstrate what can be achieved, are intended to be followed by citizen action initiatives designed to achieve widespread adoption of the innovations.

HUD Rehabilitation Guidelines

In 1979, HUD outlays for rehabilitation projects amounted to $1.6 billion and it was estimated that, of this amount, $240 million was wasted because of unnecessary building code requirements. Congress directed HUD to develop a model rehabilitation code for voluntary adoption by states and municipalities and in 1980, a series of 8 documents, called Rehabilitation Guidelines, was published. HUD is now actively promoting these guidelines through regional seminars and workshops.

4.1.3 **State Initiatives** (See APPENDIX A for more details)

Many state governments have taken initiatives to reduce housing costs, including developing state guidelines, modifying regulatory legislation and promoting demonstration projects and conferences. The following represent some of the most interesting initiatives.

° Some states, including California, Vermont and Indiana, have enacted enabling legislation which provides for intervention to prevent discrimination against certain forms of manufactured housing at the local government level.

° Virginia has adopted a performance code, in lieu of the usual prescriptive code, to allow for the use of the most cost effective construction methods consistant with health and safety standards.

° Oregon, Virginia and New Jersey are among the states which have introduced legislation designed to limit the

time-frames for development approvals.

- Massachusetts and California have developed rehabilitation codes that respond to the need for more cost effective approaches to rehabilitation.

- Oregon, California and Massachusetts have adopted policies which encourage, or require, local jurisdictions to provide their "fair share" of the low cost housing requirements in their region. These states also require municipalities to eliminate regulations which unnecessarily increase the price of modest housing.

- Several states have legislated maximum standards for road construction, water supply and sewage treatment systems, to prevent the municipalities from requiring unnecessarily expensive infrastructure (a practice known as "gold plating").

- Legislation to facilitate the use of Granny Flats and to encourage the conversion of single family homes into two or more units (accessory apartments) has been adopted by some states, including California and Pennsylvania.

- Virginia, Ohio, New Jersey and Georgia have adopted state-wide cost sensitive codes for modular housing.

4.1.3 Court DecisionsOn Exclusionary Zoning

The Mt. Laurel, New Jersey decisions represent the most celebrated court rulings on exclusionary zoning. The Mt. Laurel 1 (1975) decision stipulated that suburban zoning ordinances must permit development of sufficant housing to meet a "fair share" of the region's lower income housing needs. The Mt. Laurel 2 (1983) decision went even further and required that growing suburbs use innovative zoning techniques to ensure that lower income housing is actually built. Several other State Courts have held that municipalities have an obligation to consider regional needs in their zoning ordinances.

The New Jersey Supreme Court has defined the following innovative zoning techniques that it may require a municipality to use in order to ensure that it achieves "its fair share".

- **Incentive Zoning**, such as density bonuses, which allow a builder to construct additional units if a certain proportion of the unit in the development are designated for low income households. Other possible incentives include waivers of park, sub-division and processing fees.

- **Inclusionary Zoning**, under which developers are required to include a minimum amount of lower income housing in their projects. Provision is made to allow builders that construct more than the required number of lower income units to earn inclusionary zoning credits. These may be sold to builders who prefer to build less than the required number.

- **Mobile Home Zoning**, which provides for the acceptance of mobile home parks.

- **"Least Cost" Housing**, defined as the least expensive housing that builders could provide after the municipality has removed all excessive restrictions and exactions and has exercised all affirmative devices that might lower costs.

4.1.4 **Local Government Initiatives** (See APPENDIX B for more details.)

The primary catalyst for locally initiated regulatory reform has usually been the need to attract growth. The major planning reforms in Fort Collins, Colorado and in Phoenix were introduced only after extensive public debate. As interested parties gained a better understanding of the problems, the regulatory reform solutions became easier to accept.

Many municipalities have introduced computerized approval processes, which often mean that developers are relieved of the burden of submitting plans to many different agencies (i.e. it provides a one-stop process). Other municipalities have adopted a wide range of less sophisticated practices in an effort to minimize delays in approvals and inspections.

4.1.5 **Industry Initiatives**

In 1983, the President of the NAHB initiated the **Regulatory Reform Task Force**, with a mandate to achieve long-term regulatory change.

The NAHB has worked closely with HUD and the Joint Venture for Affordable Housing Program. The Association has provided technical support to builders involved in demonstration projects and has used the Citizen Action Program, and its own local chapters, to combine with citizen groups in mounting effective lobbies for regulatory reform at the local level.

The NAHB is also working actively with building code agencies to improve the cost-effectiveness of code requirements. For example, recent changes in plumbing codes

reflect the fact that high efficiency plumbing fixtures can be served by lower capacity distribution systems, thereby permiting smaller pipes.

4.1.6 Strategic Emphasis

From the foregoing, it will be apparent that a great deal of the U.S. effort in the area of regulatory reform has been directed at convincing all levels of government, industry and consumers of the need for reform and the benefits that could accrue. This is helping to break down barriers to reform and foster a cooperative, rather than adversary, attitude in dealings between the house building industry and regulatory agencies.

4.2 Canadian Initiatives

4.2.1 Current Pressures for Regulatory Reform

Although the reform of building and development controls has generally not been pursued as aggressively in Canada as in the U.S., the same types of basic problems have been identified in many published reports. There are, however, indications that regulatory reform will be given a much higher priority in the future. These include:

- the Nielsen Task Force report on regulation, which calls for a general re-examination of regulations, particularly those administered by Federal agencies;
- Ontario's "Building Together Program", one of the primary goals of which is the rationalization and streamlining of building regulations;
- the Associate Committee on the National Building Code's initiatives to encourage the uniform adoption of the National Building Code across Canada;
- proposals by agencies such as the Federation of Canadian Municipalities, the Canadian Association of Housing Renewal Officials, and the Canadian Home Builders Association to work cooperatively in seeking ways of improving the cost-effectiveness of building regulations.

In the field of housing, the pressures for reform reflect the recognition that current regulations tend to stifle innovation and increase costs, at a time when it is necessary for the industry to respond effectively to changing markets and technology, and the need for more affordable housing.

4.2.2 Past Studies and Reports

In 1973 **The Ontario Advisory Task Force on Housing Policy (Comay Report)** issued a report containing several recommendations on ways in which the Province could influence municipalities to modify their development

standards, to facilitate the production of affordable housing. These recommendations, which still relate to current problems, included:

- that the inclusion of housing policies be mandatory in regional and local official plans;
- that the Province establish suitable minimum development and occupancy standards, while prohibiting municipalities from imposing higher requirements except for demonstrated acceptable cause;
- that the administration of regulations be simplified and speeded up "streamlined", and that time-limits or deadlines be applied to the processing of development applications;
- that the policies, regulations and procedures to be followed by developers be stated explicitly and published;
- that financial assistance to municipalities for services should be related to minimum standards, servicing costs above the minimum standards must be met by the municipalities;
- that municipal zoning regulations be developed which would facilitate the construction of alternative forms of medium density residential buildings;
- that municipal occupancy standards and zoning regulations be revised to facilitate the conversion of large under-utilized houses for multi-family occupancy;
- that the Province not allow municipalities to exclude mobile homes as a permited use under zoning by-laws.

In 1976 Ontario developed **Guidelines for Cost-Effective Servicing** which were made available for adoption by local governments. These standards have been adopted in a few jurisdictions.

The report of **The Federal/Provincial Task Force on the Supply and Price of Service Residential Land (Greenspan Report)** which was released in 1978, indicated that although demand factors caused land and house prices to increase dramatically in the early 70's, provincial and municipal "red-tape", high municipal lot levies, "gold-plated" municipal services, municipalities protecting their property tax base and citizen resistance to new development, all contributed to the high price of housing. Another of the reports conclusions was that the municipal property tax system gives local government no incentive to provide low cost housing.

A report issued in 1979 by the Ontario Government proposed **Urban Development or Subdivision Standards** which would substantially reduce costs per unit. The study demonstrated that by reducing street widths and lot sizes, as well as modifying standards for sidewalks and service connections, significant savings were possible. The standards were

issued as guidelines only and some Ontario municipalities have adopted them without difficulty, however, many municipalities still impose standards far in excess of those proposed in the guidelines.

In a 1984 **Report by the Construction Industry Development Council** it was suggested that regulations on land development and planning be subject to cost benefit analysis and that they be periodically re-examined. The Council also recommended that reform of construction and planning regulations be accorded high priority by the leaders of all governments in Canada.

A **Study of Residential Intensification and Conservation of the Rental Stock**, by Klein and Sears, for the Ontario Ministry of Municipal Affairs (released in 1983) concluded that there is considerable physical potential to increase the stock of rental housing in Ontario municipalities, through a variety of intensification activities. However, the report noted that existing municipal by-laws and other regulations in most instances discourage, or prohibit, most types of neighbourhood intensification. The report made a number of recommendations to reduce constraints on intensification and infill attributable to existing municipal by-laws, official plans and the development approval process. These included:

- that municipalities revise offical plans and zoning by-laws to permit conversion and infill "as of right", avoiding unreasonable parking requirements, minimum unit sizes, subjective standards for the external appearance and age restrictions on buildings subject to conversion;
- that municipalities establish a Housing Development Process Facilitator Position at City Hall;
- that applications involving only a small variation from the requirements of the zoning by-law not be required to proceed through the committee of adjustment process.

4.3 European Initiatives

In many European countries the number of people over 65 already exceeds 15% of the population (9 1/2% in Canada). This major change in the population mix, coupled with a need to maximize the use of land and infrastructure, has provided an impetous to explore ways of better using the existing stock to provide small units. Planning requirements and building codes have therefore been tempered to facilitate, rather than inhibit, intensification and conversion. Because of the different planning and regulatory environments, no attempt has yet been made to explore details of the approaches used in these countries, to determine potential for adoption in Canada.

One possible area of regulatory reform, in which there is

very little experience in North America is in the use of performance standards for construction codes. It would, therefore, be appropriate to study the experiences in Sweden, where they have used performance standards for several years, and in Britain, where performance codes were introduced late in 1985. In the case of Britain, the opportunity exists to determine: what led to the decision to switch to performance codes; how the codes were developed and implemented; and the initial reactions of industry and regulatory authorities to the new approach.

5.0 OPTIONS FOR REGULATORY REFORM IN CANADA

5.1 Gaining Support

Based upon experiences in the U.S., raising people's awareness of the problems with the current regulatory environment is a key step in getting them to give consideration to the potential benefits of regulatory reform. It is necessary to create a strong political commitment to re-examining regulatory objectives and exploring, developing and implementing more cost-effective ways of meeting these objectives.

The main thrust of HUD's Joint Venture For Affordable Housing Program has been to generate support for regulatory reform at the level of local jurisdictions. This is being achieved by:

- developing and disseminating information which identifies problems and suggests alternative ways of addressing these problems;

- providing a medium for demonstrating what can be achieved through cooperation between local regulatory authorities and industry;

- publicising the results to show that significant savings can be achieved without sacrificing essential health and safety considerations, or compromizing local amenities, property values or tax bases.

The Federal and Provincial Governments have an obvious interest in any regulatory reform that will improve the affordability of housing and reduce the need for subsidies. Benefits to Local Government can include:

- an improved ability to attract growth, by providing a wide range of housing options (It should be recognized that many regulatory reforms (e.g. streamlining) will result in cost savings on all housing developments, not just those intended for low and moderate income families. The benefits will probably also extend to commercial developments, another positive factor in attracting growth.);

- a positive reaction from established residents, who see the housing affordability problems of their families, and perhaps themselves in later years, being positively addressed;

- reduced costs for administering regulations;

- reduced costs for developing and maintaining infrastructure;

- potential access to public funds that might otherwise be required for housing subsidies.

5.2 Strategic Options

The following two approaches, to stimulate regulatory reform, illustrate the wide range of strategic options available.

Approach 1 - Improved Information Dissemination

This approach would reinforce what is currently taking place. Attempts would be made to improve the collection and dissemination of information to those people best able to influence and initiate regulatory reform. The material would include information on:

- research studies;
- demonstrations;
- actual experiences of regulatory reform.

Audio-visual presentations could be used to better illustrate innovative approaches and actual housing developments. Workshops and seminars could provide forums for the exchange of ideas.

Raising the awareness of opportunities for reform would, hopefully, encourage many regulatory agencies to actively pursue change and provide them with a good knowledge base to assist them in choosing between options.

The major drawbacks to this approach are: that it is likely to result in a very uneven acceptance of reform; and that there could be considerable duplication of effort in exploring and developing new regulatory mechanisms.

Approach 2 - Integrated Plan for Regulatory Reform

This approach would involve bringing together representatives of all key agencies involved in developing and administering regulations and all segments of industry involved in responding to regulations. The objective would be to develop an integrated plan for an aggressive pursuit of regulatory reform. To make the process managable, a modest sized committee could be given a mandate to develop overall strategies and priorities, while small sub-committees could address specific areas of regulation and reform.

The following are seen to be the main advantages of this approach:

- The involvement of all key actors in the development of recommended reforms will greatly increase the prospects of acceptance and implementation.

- A more uniform regulatory environment, across Canada, is likely to result.

- Duplication of effort can be minimized and resources can be pooled to develop and promote new regulatory approaches and develop the mechanisms necessary to apply and administer them (e.g. model codes, demonstrations, computerized approval processes, etc).

- It provides for cross-fertilization of ideas, a broad base for the identification of problems and an opportunity to establish priorities in a total context.

The following disadvantages are forseen.

- It could prove cumbersome to involve all interested agencies.

- Agencies may be reluctant to delegate authority and resources.

- There may be a tendency to defend vested interests.

A relatively modest investment in the aggressive pursuit of regulatory reform could produce major financial benefits for Government, industry and consumers. Considerable experience now exists in identifying problems and in developing and implementing alternative regulatory methods to remedy problems. Given these circumstances, it is opportune and feasible to move aggressively to accellerate the reform of regulations applied to residential construction and renovation. Support should be solicited, from all appropriate agencies, for the idea of "developing an integrated plan for the reform of regulations applied to residential construction and renovation".

APPENDIX A - EXAMPLES OF STATE INITIATIVES IN THE U.S. AIMED AT REGULATORY REFORM AND THE PROVISION OF AFFORDABLE HOUSING

State governments in the U.S. have initiated a variety of programs with the aim of reducing housing costs by promoting regulatory reform. These efforts have ranged from state guidelines and laws to affordable housing demonstrations and state-sponsored conferences.

- **Information Dissemination Initiatives**

  To focus public attention on the affordability issue, and the opportunities for regulatory reform, a number of states have established affordable housing demonstration programs, convened conferences and initiated research and policy analysis. These efforts, which have received strong support from the business community, labour and housing consumers, have been useful in defining a course of action and generating political support.

  For example, New Jersey created a Mobile Home Study Commission to review the status and potential role of mobile homes in the State's housing market. Workshops to develop plans for affordable housing have been held in Colorado, Florida, Illinois, Maryland, Rhode Island and Virginia.

  In 1983, a workshop in the State of Missouri, involving lenders, realtors, planners and state and local officials, recommended actions to lower housing costs statewide. The proposals calling for action by the governor, legislature and state agencies, included:

  - Review of regulations and practices of all state agencies with respect to their impact on housing.
  - Review of the State's enabling legislation to recommend limiting local planning and zoning legislation to those pressing government interests necessary for health and safety. The burden of proof of the vital and pressing interests involved should be on the issuing jurisdictions.
  - Creation of model subdivision standards and planning and zoning regulations for the development of affordable housing.
  - Updating local planning and zoning authority to ensure that localities can enact innovative, flexible land use regulations and planning procedures.
  - Requiring all jurisdications that enforce building codes to conform to one current, nationally recognized code.
  - Establishing a housing policy and research staff to investigate affordability problems.

- **State Legislated Directives**

State actions have also included executive and statutory directives for affordable housing reforms; enabling laws that permit localities to adopt cost saving reforms; as well as prescriptive laws which require local governments to implement specific standards or actions. These state initiatives include the following:

- **Relating to Manufactured Housing**

California, New Hampshire, Vermont and Indianna have enacted statutes that prohibit local zoning ordinances which unduly restrict manufactured housing.

California allows mobile homes installed on foundation systems to be taxed as real property. California law also provides for local property taxation of all new mobile homes sold after July 1981. Many municipalities justify restricting the establishment of mobile home communities because the status of mobile homes as personal property prevents local governments from collecting sufficient taxes to cover the costs of services.

Florida's Local Government Comprehensive Planning Act requires that mobile homes be treated the same as any other development under the Act. The housing element of each jurisdication must also make provisions for sites for mobile homes. The housing elements, when adopted, have the status of ordinances.

Vermont now prohibits any local zoning regulation which has the effect of excluding manufactured housing or other forms of prefabricated housing. Manufactured housing can only be excluded on the same terms and conditions as conventional housing.

Virginia, Ohio, New Jersey and Georgia have adopted a statewide, cost-effective, code for modular housing units.

- **Relating to Building Codes**

Virginia has adopted a performance oriented building code rather than the more prevalent prescriptive code. The performance code was adopted because it would allow for "construction at least possible cost consistent with recognized standards of public health and safety". To ensure proper enforcement minimum education and experience standards were established.

- **Relating to Streamlining Approval Processes**

Oregon has passed legislation which prohibits municipalities from engaging in a pattern of conduct of failing to provide timely building code inspections and plans reviews. Oregon now

requires local governments to take final action on a subdivision plan within 180 days (6 months) of filing.

Virginia has legislation which mandates a maximum time of 4 months for all subdivision permits.

In **New Jersey** the most successful aspect of the state's attempt to streamline the local approval process has been the maximum time period for the review of applications.

- **Relating to Rehabilitation**

Massachusetts has developed a rehabilitation code which allows the existing building to become the minimum performance standard. Rehabilitation work which results in a standard of health and safety lower than the existing standard is not permitted.

California has taken a somewhat different approach by identifying permitted variances from the State Building Code for rehabilitation work. (This is similar to the approach now being used in Saint John, Winnipeg and Vancouver.)

- **Relating to "Fair Share" and "Least-Cost" Requirements**

A few states have adopted policies which encourage, or require, local jurisdictions to provide a "fair share" of the region's low-cost housing. The states listed below no longer allow local governments to avoid providing some of the affordable housing required, in the larger region, by erecting regulatory barriers to various forms of affordable housing. These states also require municipalities to eliminate regulations which unnecessarily increase the price of modest housing.

Oregon has adopted a land use planning law which requires that adequate land be set aside for affordable housing. This requirement has the force of state law. For the Portland area, the state has set minimum density and new construction mix standards (the minimum density is 6.23 units per buildable acre and 50% of the units must be multifamily). To gain state approval, local plans must: provide for manufactured housing; relax subdivision standards; and must use density bonuses. Oregon has adopted the policy that municipalities cannot unnecessarily increase the cost of housing. Local regulations should facilitate the production of housing at least possible cost, even if the cost is still too high for low-income persons.

California requires local comprehensive land use plans to have a housing element which should pay special attention to the needs of low and moderate income households. This requirement does not have the force of state law, unlike Oregon's planning law. California has also enacted laws

which prohibit discrimination against low and moderate income groups in housing developments. As part of its overall regulatory review process, California requires that local governments reduce unnecessary development standards to allow for the production of more affordable housing.

Massachusetts has adopted a policy of withholding state community development funds from those communities which accept less than their "fair share" of low-cost housing. To date, this policy has been aimed primarily at subsidized, rather than lowcost market housing. Approximately 10 years ago, Massachusetts enacted legislation to prevent local governments from using their zoning powers to discriminate against subsidized housing (this was called the "anti-snob statute"). Massachusetts also has a policy of withholding state grants from municipalities which do not support zoning amendments and other actions that increase density or lower housing costs.

- Other states have introduced policies to:
  - control the setting of maximum standards for road construction, water supply and sewage treatment systems, to prevent municipalities from requiring unncessarily expensive infrastructure (a practice known as "gold-plating");
  - enable the construction of second dwellings (Granny Flats) on single family lots and the conversion of single-family homes into two or more units (accessory apartments).

State Court Decisions on Exclusionary Zoning - Mt. Laurel

The most celebrated court cases in the area of exclusionary zoning case law have been the Mt. Laurel, New Jersey decisions. The Mt. Laurel 1 (1975) decision stipulated that suburban zoning ordinances must permit development of sufficient housing to meet a fair share of the region's lower income housing needs. The Mt. Laurel II (1983) decision went even further and required that growing suburbs use innovative zoning techniques to assure that lower income housing is actually built. Several other State Courts have held that municipalities have an obligation to consider regional needs in their zoning ordinances.

One of the more contentious issues is the determination of a municipality's fair share. Under the Mt. Laurel decision, three trial judges determine the municipality's fair share of the region's lower income housing needs. The New Jersey Supreme Court has described innovative zoning techniques that the trial court may require a municipality to use in order to achieve its fair share. If a local government cannot otherwise assure construction of its fair share of low income housing, then the court will mandate the use of these techniques. Among the innovative techniques mentioned by the Court are the following:

- **Incentive Zoning**, which would relax certain restricitions in a zoning ordinance in return for the provision of a specified amount of lower income housing. Examples of incentives are density bonuses, which allow the builder to construct additional units if he designates a certain proportion of the units in the development (usually 25%) for low-income households. Other possible incentives include waivers of park, subdivision and processing fees.

- **Inclusionary Zoning**, which is different from incentive zoning in that it is not voluntary and is not activated by various incentives. It requires that developers include a minimum amount of lower-income housing in their overall developments. Because some builders find it easier to provide the required number of lower income units than other builders, the Mt. Laurel decision allows for inclusionary zoning credits. Builders constructing more than the required percentage of low-income units can sell credits to those builders who would prefer to build less than the stipulated number.

- **Mobile Home Zoning** was identified by the New Jersey supreme court as another affirmative device which could be used if fair share compliance could not be achieved by other means.

- **"Least Cost" Housing** was defined by the court as the least expensive housing that builders could provide after removal by the municipality of all excessive restrictions and exactions, and after thorough use by the municipality of all affirmative devices that might lower costs. "Least cost" housing would be required as a last resort, after all other regulatory impediments had been removed and the municipality was still unable to meet its "fair share" obligation.

The Mt. Laurel decisions represent a major reversal of long-standing zoning practices. Although zoning was originally intended to protect the health, safety and general welfare of the community, its use since then has deviated considerably from this legitimate purpose. The term "general welfare of the community" has been very broadly interpreted to justify the exclusion of multifamily dwellings. Not long after its inception, "Euclidean Zoning" was accepted as an effective, albeit crude, means of protecting neighbourhood amenitites and property values. The Mt. Laurel decisions significantly limit the ability of municipalities, in the State of New Jersey, to protect the interests of their residents to the detriment of the larger community. The New Jersey Supreme Court in its landmark decision, requires local municipalities, in their zoning decisions, to take into account the welfare of the larger region in terms of providing affordable housing.

APPENDIX B - EXAMPLES OF LOCAL REGULATORY INNOVATIONS IN THE U.S.

Fort Collins Colorado

In 1981, Fort Collins adopted an approach to land use regulation radically different from conventional zoning. Traditional zoning classifies land uses (e.g. residential, commerial and industrial) and allocates these uses to geographical zones to ensure spatial separation between uses regarded as incompatible. Within each zone, land uses are more or less uniform. This zoning technique is essentially prescriptive, in that certain classes of land use must be assigned to different geographical zones and physically separated to minimize negative externalities. Different land uses are assumed to be incompatable even though this may not be the case in many situations.

Fort Collins eliminated traditional zoning and created the "Land Use Guidance System", which amounts to performance zoning. Under this new system (which the American Planning Association honored with its 1982 Outstanding Planning Program Award), the City no longer fixed geographical areas for residential, commercial and industrial uses. Each proposed development is evaluated according to several performance criteria relating to aesthetics, environmental impact, compatibility with transit, etc. A point system is used to evaluate development proposals and award density bonuses. Unlike traditional zoning, the land development guidance system sets a minimum density for development, based upon the minimum required for efficient provision of public services. Maximum densities are also established but they relate to a number of criteria, including proximity to employment centres, shopping, transit, etc. The significant feature of this approach is that **all land uses are possible** provided that they are compatible with surrounding uses and consistent with community objectives.

Performance zoning is more objective and the results more predictable, because the criteria for project acceptance are made explicit. Moreover, the weighting allocated to various aspects of performance is also made explicit. This awareness of municipal preferences allows builders to develop proposals which emphasize those features which are most important to the municipality and both builders and the municipality benefit from a dramatically shortened processing time. Although political factors and subjectivity are probably not absent in the awarding of points, the major advantage of this approach is that the regulatory objectives, criteria and priorities are made explicit.

A 403-acre planned community is currently under development in Fort Collins. The site will include apartments, patio homes and townhouses as well as commercial and high-tech businesses. While it was considered desirable to mix residential, commercial and industrial uses in fast-growing Fort Collins, traditional zoning

provided major obstacles, rather than incentives, for such mixed uses. The new zoning technique leaves it largely to the market to determine a specific use, while the city regulates the external features of the project - those aspects which impinge on the surrounding area.

It is evident that performance based zoning permits a much greater diversity of land uses within a given area. This can potentially reduce per unit infrastructure and lot costs through increased densities and improved design, without reducing the neighbourhood quality. In Fort Collins, it has also helped to promote well designed infill development at high densities.

Fort Collins has also used a variety of streamlining techniques to reduce the time-frame for city review of development projects. These techniques include an early staff review of development proposals prior to the preparation of detailed plans. This has given staff additional time up-front to work out problems which might otherwise bounce back and forth between staff and city council. It can also save developers from incurring costs for abortive design work. Building inspections have been streamlined through cross-training of building inspectors in the various trades and skills needed to make a single inspection. This can save time and money for both the builder and the municipality. Decisions on all land use and development proposals are made by a single review authority (the zoning and planning board). These decisions, which are based on the land use guidance system, do not involve the city council unless the board decision is appealed. Time-consuming rezoning procedures have been eliminated. By concentrating political involvement in this manner, the review process has been shortened by approximately one month.

Overall, the new land development guidance system, together with the streamlining measures, have dramatically reduced the processing time of proposed developments. Since the new system was introduced, average processing times have been reduced from nine months to four months. In Canada, the approval process often takes more than one and a half years, so that the potential impact of streamlining is substantially greater.

While the radically different approach to land use regulation in Fort Collins needs to be carefully monitored, it does appear to offer significant opportunities for more efficient, cost-effective development, together with a more speedy and predictable approval process. Indeed, another U.S. city, Brattleboro, Vermont is apparently looking at the possibility of moving towards the use of performance standards. Whether performance zoning will produce more affordable housing in Fort Collins is not yet known, however, any approach to land use regulations which permits a greater variety of land use, while protecting neighbourhood quality and ensuring that public facilities are provided in a cost-effective manner, has this potential. Perhaps the most significant achievement of the Fort Collins approach is that both developers

and controlled growth advocates are happy with the new system.

Phoenix, Arizona

Phoenix has embraced regulatory reform with enthusiasm. The City's philosophy is to control only those aspects of development which the private market cannot control, and to provide incentives for builders to bring in preferred types of development. Despite rapid growth, Phoenix has experienced a sharp decline in the availability of affordable housing. In the last 15 years, the percentage of Phoenix residents able to afford the average priced home declined from 65% to 15%. The City has responded by devising new techniques to facilitate low-cost housing production.

The combination of streamlining and regulatory reform approaches adopted in Phoenix have achieved remarkable results. A new subdivision built under the new residential zoning ordinance included homes priced at under $32 000 per unit in 1981 ($46 850 at 1985 prices assuming 10% inflation per year). In another subdivision, the approval process moved so swiftly that only 4 months elapsed from the time the development proposal was officially submitted to the time new owners moved in. The following are among the regulatory reforms and streamlining techniques adopted by the City:

- **Residential Zoning Ordinance**
  One of the most significant regulatory reforms has been a zoning ordinance which allows 4 optional ways of development in every residential district. The most popular option has been the planned residential development in which the builder receives a 20% density bonus in exchange for the provision of additional landscaping and amenities. Within the planned residential development (PRD) zone there is no minimum lot size and setbacks are reduced to 10 feet. Within a specified density limit builders have total flexibility as to the type of housing that can be placed on a parcel of land. This allows the builder to respond quickly to changing market conditions and volatile financing. Dense cluster housing can be erected while remaining within overall density limits. Such housing can be produced at significantly lower cost because street and utility lengths are greatly reduced. Private yards are reduced in exchange for more communal open space.

  Phoenix's Residential Zoning Ordinance, while it allows for a greater diversity of housing and lower costs, represents a less radical change than the Land Use Guidance System used by Fort Collins. The Fort Collins performance zoning sets minimum and maximum densities, related to the proximity of the property to; employment centres, shopping centres, transit routes, parks, etc. In Phoenix, on the other hand, there is only one maximum density level.

  Fort Collins also permits a mixture of residential, commercial

and light industrial uses, whereas Phoenix permits only a variety of residential uses under its Residential Zoning Ordinance.

- **Overlay Zones**
  To accomplish certain objectives, such as rehabilitation and urban infill, Phoenix has developed special purpose zoning, or permissive zoning overlay districts. An overlay district is, in effect, a second layer of zoning, established by the Planning Commission and City Council, intended to facilitate certain development activites beyond those allowed in the existing zoning. The special district includes a tailored set of performances and incentives for infill development. To encourage infill development, the City provides density bonuses for mixed use and multifamily developments. These have greatly assisted the City in developing vacant inner city land.

- **Developers' Assistance Office**
  To assist developers in coping with red-tape and to resolve conflicts among city regulations, the City of Phoenix established the Developers' Assistance Office. With its location in the City Manager's Office, this 'ombudsman' has considerable authority to resolve problems and expedite development applications. The office has also been a good public relations tool for Phoenix, by showing developers that the City is concerned about their needs.

- **One-Stop Service**
  For developers of major projects, Phoenix offers "one-stop" service. An interdepartmental Development Coordination Office combines all the various staff involved in reviews and consults with the developer before formal review begins. Early reviews of projects, by all of the departments involved, greatly assists the developer in fine-tuning his project and avoiding expensive abortive design work.

- **Delegation of Authority**
  To avoid delays in obtaining approvals from City Council or other review bodies, approval authority for certain kinds of development plans has been delegated to department and division heads. City staff members have reduced processing time for these projects from up to 4 months to less than 3 weeks. The Planning Commisision and Council focus on requests for rezonings and appeals from staff actions, while the Development Coordination Office reviews and administers site plans, subdivision plans and virtually all development proposals that do not require legislative action.

- **Fast-Track Processing**
  Phoenix has a formal fast-tracking procedure which, on a major project, can save 4 to 5 months. Faster processing is achieved by assigning extra city staff to handle reviews, inspections and any problems that occur. Where multiple reviews and public

hearings are required, the staff will, to the extent possible, run these simultaneously.

- **Single Inspections**
  Phoenix now has general inspectors to conduct all residential inspections. They are cross-trained in the various trades and skills associated with inspections. This is a major improvement over the former system, where builders had to wait for four separate inspectors on each project. Single inspections not only save time and money for builders, but the City also saves $750 000 per year.

- **Customized Construction Code**
  Phoenix has greatly reduced the size of its building code, which now deals primarily with safety issues. Much of the reduction in size is the result of eliminating cosmetic regulations. The new Phoenix Building Code is half the size of model codes such as the Uniform Building Code.

- **Phoenix's HUD Demonstration Project**
  Phoenix participated in HUD's Affordable Housing Demonstration Program and approved a number of changes to existing regulations for the purpose of this project. These included: reduction of pavement widths from 29' to 20'; the use of flat or ribbon curbs rather than roll curbs and the reduction of collector street right-of-ways from 60' to 50'. The dwellings in the demonstration project were attrative to home buyers and sold out quickly.

Salinas, California

In an effort to encourage new industrial development and the production of affordable housing, the City of Salinas has made a major effort to streamline the process of reviewing development proposals. City staff recognized that some proposals were "over-processed", resulting in delays and added costs for both the City and the developer. The elimination of unnecessary bureaucracy has reduced processing times significantly. On relatively simple applications the former processing time was typically 3 months. This has now been reduced to an average of three weeks. On larger, more complex projects, processing time has been cut from between 6 to 9 months to no more than 4 1/2 months.

Among the measures adopted to eliminate unnecessary bureaucracy were the following:

- **Development Review Committee**
  This is a staff committee that brings together the concerns of all City departments with an interest in a development proposal. The function of the committee is to develop a unified City staff position on each proposal, thereby avoiding the common problem of different staff members providing different answers. The Development Review Committee is very

much the same as the Development Coordination Office established by the City of Phoenix to streamline the approval process there.

- **Use of Project Planners**
  A single planner is assigned to each development application. This person is responsible for carrying the proposal from initial discussion stages, through approval, into follow-up and construction stages. The project planner is responsible for preparing all staff reports on the project and making presentations to the Planning Commission and City Council. The project planner also assists developers in resolving questions raised by other city departments.

  This approach also increases efficiency in the review process. There is a better understanding by staff of the intricacies of the project and this allows project planners to help developers through the pitfalls which frequently cause delays. Together with the Development Review Committee, the use of project planners allows the City of Salinas to respond more quickly and effectively to development proposals.

- **Consolidation of Lay Review**
  A major project often requires a general plan amendment, a rezoning, or other approval. In the past, these reviews have been sequential. The City recently adopted a system for concurrent processing of the various required City actions. A single public hearing is held with all the issues discussed and resolved at the same time. The consolidated lay review avoids the traditional series of public hearings, thereby reducing total processing time considerably.

- **Staff Approval of Non-Controversial Projects**
  Salinas has given authority to the Director of Community Development to waive lay review for projects which conform to the City's Comprehensive Plan, have no negative impact on the surrounding area and experience no public opposition. When this authority is used (in 10% of the cases) it has saved considerable time as well as unnecessary administrative work.

- **Preliminary Staff Review**
  To provide developers with some indication of the City's views of a project and to provide the City with input at an early stage, Salinas offers what it calls a "preliminary land use determination" (PLUD). This is an informal review procedure used primarily for larger projects. The developer only needs to submit a preliminary site plan. The review provides the Planning Commission with an opportunity to provide advance warning of any potential problems and this allows the developer to decide if it is worth investing additional time and money to produce a more detailed proposal.

Sacramento County, California

Regulations have been streamlined to allow routine land use decisions to be handled at the staff level without time consuming lay review. The following measures help to facilitate the process:

- Informational material is provided to developers to assist them in meeting the requirements of the County.
- Pre-application conferences, involving County officials, to obtain early feedback on development schemes before additional time and money are spent on the preparation of a formal proposal.
- The development of a county level Master Environmental Impact Report, so that developers need not prepare their own reports, they need only comply with the Master Report.
- The employment of a Hearing Official, a quasi-judical position, to review projects on behalf of City Council. The Hearing Official is generally very knowledgeable about planning and political issues. If necessary, decisions of the Hearing Official can be appealed to Council. the use of a Hearing Official can save considerable time for both developers and the City.
- Delegation of approval authority to staff level for certain types of projects.

San Jose, California

Development approval streamlining initiatives include:

- the use of a Hearing Officer;
- pre-application conferences;
- delegation of some permit approval to staff.

To promote infill development on small parcels of land, San Jose allows for flexible planned unit development. Through improved design and higher densities, planned unit developments can produce projects which are cost-effective and compatible with the surrounding areas.

Beaumont, Texas and Preoria, Illinois

Both cities have adopted a system for consolidating the lay review process, similar to that used by Salinas, California. Preoria has also taken steps to expedite the inspection process, by using multidisciplinary inspectors who perform all code-related inspections.

Kitsap County, Washington

The fast-track processing instituted by Kitsap County involves the automatic issuing of a building permit for certain basic designs. There is no time consuming approval process for these designs. Builders who choose designs other than basic designs must follow the normal approval process.

Orange County, California

A private consulting firm provides state registered inspection services in lieu of the service being provided by government inspectors. The private inspection service has succeeded in eliminating delays in providing approvals. Developers have achieved significant savings as a result of not having to halt construction activities. Orange County has also instituted inclusionary zoning, requiring builders to construct a certain percentage (25-30%) of housing in any development for low or moderate income households. A price range is stipulated for the modest housing.

San Diego, California

A somewhat sophisticated approach to inclusionary zoning has been adopted in San Diego. This allows for the sale of inclusionary zoning credits, by builders who exceed the affordable housing requirement, to developers who build less than the required 25% of affordable housing. Also in an effort to promote affordable housing, San Diego has amended its comprehensive plan and land use regulations to encourage the use of manufactured housing.

El Paso County, Colorado

To expedite and improve decision-making on land use issues, El Paso has developed a computer system to store and process information on land use. The computer stores information on such matters as zoning and land ownership to facilitate decision-making.

San Leandro Valley, California and Weston, Connecticut

By setting age limits on dwellings which can be converted, virtually all jurisdictions in the U.S. discourage constructing dwellings designed to facilitate sub-division. San Leandro Valley and Weston, however, impose no age limits and do allow builders to construct dwellings capable of being easily converted to include accessory apartments.

Washington County, Oregon

Although manufactured housing can offer very affordable housing, most urban communities have regulations which severely constrain opportunities for its use. In Washington county, the Planning Commission investigated the possibility of allowing manufactured homes on individual lots in low-density, single-family districts. As a result, the County amended its zoning ordinance to allow manufactured homes, that meet certain design requirements, to be located in all but one residential zone.

Mesa County, Colorado

To prevent unwarranted discrimination against manufactured housing,

Mesa County adopted a land use policy which only requires that manufactured housing meet certain 'look alike' standards to ensure compatibility with site-built units.

East Windsor Townships, New Jersey

Rather than integrating manufactured housing into developments of site-built homes, East Windsor proposed changes to its comprehensive plan that would provide additional areas for manufactured housing. Recently, a tract of more than 100 acres was proposed for rezoning that would allow manufactured housing.

Log Angeles County, California

Los Angeles has encouraged the use of manufactured housing by establishing very explicit requirements for appearance. A new ordinance states that manufactured housing which complies with the HUD code automatically meets the definition of a single-family residence. Standards are prescribed relating to roofing materials, roof pitch, exterior sidings, minimum floor areas and dwelling widths which apply to all housing - conventional and manufactured.

Salem, Oregon

Salem allows manufactured housing subdivisions 'by right' in all residential districts, provided that the subdivisions are more than 3 acres. Communities may also create special manufactured housing districts if they do not regard manufactured housing as being compatible with conventional housing.

Norton, Virginia

To facilitate production of low-cost housing, Norton amended its subdivision ordinance to include a section for manufactured housing on smaller lots.